

REMARKS / ARGUMENTS

A. Generally

Claims 1-9 and 19-35 are pending in the Application. Claims 1, 2, 6, 7, 19, 20, 22, 27, and 31 have been amended. Claims 10-18 were previously canceled. No new matter has been added.

B. Claim Rejections

CLAIM REJECTIONS - 35 USC §102

Claims 1, 3-9, 19, 21-27 and 29-35 have been rejected under 35 USC §102(e) as being unpatentable over International Publication WO 99/63759 of an application entitled, "Television Delivery System," filed by Cameron et al. (herein, "Cameron"). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP §2131 8th Ed. (Rev. 1). In order for a patent claim to be anticipated, the prior art reference must teach or suggest each and every limitation of the claimed invention.

Additionally, when applying a reference to the pending claims of an application, the pending claims must be "given their broadest reasonable interpretation consistent with the specification" *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). In *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997), the court held that the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification." The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). See, MPEP §2111 (8th Ed., Rev. 1).

Applicant submits that if the pending claims of the present application are examined with full appreciation of the meaning ascribed to the terms used in the claims by the specification, it will become clear that the cited prior art does not teach the limitations of the pending claims.

Claim 1 (as filed) of the present application recited the following limitations:

1. A method for multi-casting video content to a user computer, the method comprising:

distributing a video content program from a content center to a regional data center via an open network;

distributing the video content program from the regional data center to a user computer via a distribution network according to a multi-cast protocol;

transmitting non-video data related to the video content program to the user computer; and

displaying the non-video data on the user computer contemporaneously with the video content program.

The examiner found that Cameron taught or disclosed each of these limitations. Cameron describes delivering a TV broadcast from a broadcast provider to a subscriber over a broadband, IP enabled network. The method comprises obtaining broadcast TV signals for the broadcast provider, converting the broadcast signals to IP format, transmitting the converted signals over the network, and providing a management function to manage a subscriber's access to broadcast signals. Cameron also describes providing users access to an Interactive Program Guide (IPG), web browsing, e-mail, and other services.

Claim 1 (as examined) recited the limitation, "transmitting non-video data related to the video content program to the user computer; and displaying the non-video data on the user computer contemporaneously with the video content program." The examiner found this limitation described by Cameron at page 8, lines 5-23 and, more particularly, by the elements of **Figure 8** (illustrating an IPG). The examiner interpreted the limitation "a video content program" recited in claim 1 (as examined) as encompassing the transmission of the IPG screen in Figure 8. The examiner further noted that the IPG table cells are labeled "Real Time Broadcast Video."

Cameron describes the IPG as providing "access" to:

TV program scheduling information (Cameron, page 9, line 9);

VOD, NVOD, Internet programming as well as video and audio content (Cameron, page 9, lines 12-13); and

all broadcast content on the broadband multicast IP network as well as supporting services (i.e., subscription management). (Cameron, page 10, lines 10-12).

Thus, the IPG provides access to real time broadcast video, but the IPG data does not comprise real time broadcast video. Applicant submits that the most plausible interpretation of the reference to "real time broadcast video" in Figure 8 of Cameron is that the phrase refers to

the programs that are accessible via the IPG and not the IPG data itself. Applicant further submits that the data associated with the IPG is established at a point in time and is not streamed in real time. A review of Cameron confirms this interpretation:

The subscriber accesses the IPG through the set top box or through the computer software. In the set top box implementation some memory may be available locally for storing specific information, or alternatively, the entire IPG is maintained in the network. (Cameron, page 9, lines 13-17);

A seven day channel lineup with scheduled automatic refresh is provided. The IPG client software is automatically updated by the system at regular intervals (Cameron, page 9, lines 27-29);

Looking at Figure 5, the IPG data delivery block 60 relates to server software which provides the broadcast content schedules, previously mentioned, to the client IPG software based on the broadcast provider, customer location and customer profile. The server software has the responsibility to extract broadcast content schedules from various existing data sources (Cameron, page 10, lines 14-20); and

The system also provided for still-picture channel browsing by the viewer when available. This means that a viewer will be able to see a still "view" of a program listed in the electronic program guide. (Cameron, page 19, lines 5-8).

Figure 5 and the excerpts quoted above substantiate the conclusion that the IPG provides "access to" the video content program stream but is not part of that stream. The video broadcast system of Cameron comprises an IPG client (Cameron, Figure 5) that accesses an IPG data delivery component (Cameron, Figure 5, item 60) that is distinct from the live MPEG component (Cameron, Figure 5, item 62). Thus, the non-video data displayed by Cameron is not related to the video content program stream.

Applicant has amended claim 1 to more clearly distinguish the content to which the non-video data relates. Claim 1 (as amended) recites the following limitations:

1. (As Amended) A method for multi-casting video content to a user computer, the method comprising:

distributing a video content program stream from a content center to a regional data center via an open network;

distributing the video content program stream from the regional data center to a user computer via a distribution network according to a multi-cast protocol;

transmitting non-video data related to the video content program stream to the user computer; and

displaying the non-video data on the user computer contemporaneously with the video content program stream.

Cameron does not, therefore teach or disclose all of the limitations of claim 1 (as amended) and does not, therefore anticipate claim 1 (as amended).

Claim 3 and claims 4-9 (each as amended) depend directly or indirectly from claim 1 (as amended) and therefore recite all of the limitation of that claim. Claim 3 and claims 4-9 (each as amended) therefore recite a limitation not taught or disclosed by Cameron and are, therefore, not anticipated by Cameron.

Claim 19 (as filed) of the present application, was rejected for many of the reasons proffered to reject claim 1 (as examined). Claim 19 has been amended to recite a “video content program stream.” Based on the preceding analysis relating to claim 1 of the present application, claim 19 (as amended) is not anticipated by Cameron. Claims 21-26, which depend directly or indirectly from claim 19, are also not anticipated by Cameron.

Claim 27 (as filed) of the present application, was rejected for many of the reasons proffered to reject claim 1 (as examined). Claim 27 has been amended to recite a “video content program stream.” Based on the preceding analysis relating to claim 1 of the present application, claim 27 (as amended) is not anticipated by Cameron. Claims 29-35, which depend directly or indirectly from claim 27, are also not anticipated by Cameron.

CLAIM REJECTIONS - 35 USC §103(a)

Claims 2, 20 and 28 have been rejected as being unpatentable under 35 USC §103(a) over Cameron. To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). MPEP §2143.03, 8th Ed. (Rev. 2, 2004).

Claim 2 depends from claim 1 (as amended). As claim 1 (as amended) is allowable over the Cameron, claim 2 is not obvious in light of Cameron. Claim 20 depends from claim 19 (as amended). As claim 19 (as amended) is allowable over the Cameron, claim 20 is not obvious in light of Cameron. Claim 28 depends from claim 27 (as amended). As claim 27 (as amended) is allowable over the Cameron, claim 28 is not obvious in light of Cameron.

C. Conclusion

Applicant respectfully requests reconsideration of the current rejection of the claims now

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pending in this application in view of the above amendments, remarks and arguments. Should any further questions arise concerning this application or in the event the above amendments do not place the application in condition for allowance, applicant respectfully requests a telephone interview. Attorney for the applicant may be reached at the number listed below.

Respectfully Submitted,

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